



MISSOURI PROSECUTOR

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MESSAGE FROM THE DIRECTOR

I don't know where I first heard this, but it was a long time ago and it has been stuck in my head ever since: "Before you do something, you have to do something else." I've found it to be true of most things in life.

If you hadn't already heard or read it somewhere, I am the latest Executive Director of MOPS. I come to this job after working as an Assistant Prosecutor for the past 16 years. I have worked for several different elected prosecutors over that period of time. Primarily Jim Icenogle, but also Marvin Opie, John Morris, Bob Seek, John Kay, Mary Greer, Greg Kays and one other I choose not to mention.

Now I begin working for many more prosecutors - those of you who are elected, and those of you who work for the elected Prosecutors and those who work as Assistants for our Attorney General. I don't know yet everything I've gotten myself into. The details will come to light soon enough. Right now it is enough to know that I have this wonderful opportunity to assist you in doing your jobs more effectively and efficiently. I've thought for years that prosecuting is the most rewarding and fun work that there is in the practice of law. I hope to be able to add to the level of satisfaction you experience practicing your profession.

I see a major role of the MOPS Director as that of an information manager. In that role I hope to provide each of you with the information you need to make good decisions. I also hope to make that information available to you when you need it. I also want to figure out a way for all of us as prosecutors to be able to share our knowledge and experience and tips and tricks with each other.

I don't know yet how that will happen, but I do know this: "Before you do something, you have to do something else." I can't wait to find out what the something else will be.

Stop and introduce yourself at the Fall Conference. I look forward to getting to know you and working for you.

—Brian Keedy, Executive Director MOPS

PROSECUTOR RECOGNITION

In recognition of their contributions, dedication, and service as prosecuting attorneys, MAPA will be acknowledging 14 outgoing prosecutors at the Fall Conference. **A presentation will take place on Wednesday afternoon at 2:50 p.m. in the General Session room.**

The honorees have provided a minimum of 12 years of service to the people of the State of Missouri. They include:

Bill Alberty—Knox County—35 years
John Briscoe—Ralls County—28 1/2 years
Doug Roberts—Livingston County—24 yrs 9 mths
Mitch Elliott—Clinton County—20 years
Jon Kiser—Wayne County—20 years
Bob Seek—Miller county—20 years
Mary Ann Young—Johnson County—16 years
Dwight Robbins—Madison County—16 years
Kevin Crane—Boone County—14 years
Ed Manning—Gentry County—12 years
Bob Wilkins—Jefferson County—12 years
Jon Morris—Laclede County—12 years
Carl Kinsky—Ste. Genevieve County—12 years
Larry Tyrrell—Wright County—12 years

INTRODUCTION TO DRUGGED DRIVING

The Missouri Office of Prosecution Services, Traffic Safety Program, is pleased to announce that it will be presenting a course entitled "Introduction to Drugged Driving" at various locations throughout the state. This course will introduce the concept of drugs in the context of DWI enforcement, familiarize attendees with the magnitude and scope of drug use in the United States, identify the effects that drug use has on driving ability, describe the seven major categories of drugs, and introduce the use of drug recognition experts in DWI enforcement. The course will qualify for 4.2 hours of CLE credit. The course will also be submitted for approval for 4 hours of POST credit in the area of technical studies. The dates and locations of these classes are as follows:

September 12 9:00 -1:00
 Courtyard by Marriott
 3301 Lemone Industrial Blvd
 Columbia, MO 65201

September 19 9:00 -1:00
 Sheraton Westport Plaza Hotel
 900 Westport Drive
 St. Louis, MO 63146

September 20 9:00 -1:00
 Days Inn
 Highway 63 South
 Kirksville, MO 63501

September 25 1:00 - 5:00
 Best Western Coach House Inn & Suites
 220 South Interstate Drive
 Sikeston, MO 63801

September 26 1:00 -5:00
 Clarion Hotel -Sports Complex
 9103 East 39th Street
 Kansas City, MO 64133



Seating is limited. Please contact Susan Glass at (573) 751-1629 or at Susan.Glass@ago.mo.gov to register.

Funding for these courses is provided by the Missouri Division of Highway Safety.

Prosecuting Attorney and Circuit Attorneys Retirement Fund Election of Officers

An election of officers will take place Wednesday, August 30 at 5:15 pm, following dismissal of the General Session at the MOPS statewide training.

If you are interested in running for the retirement board, please send a letter of interest to:

Katrina Farrow, Executive Secretary
 PO Box 104896
 Jefferson City, MO 65110
 Phone: (573) 556-7985
 Fax: (573) 556-7986



***This election is for
 Elected Prosecuting Attorneys Only***



CONGRATULATIONS on your Primary Election victories:

Mike Ash—Cedar Co Prosecutor; **Wayne Rieschel**—Dallas Co Prosecutor; **Annie Gibson**—Davies Co Prosecutor; **Christopher Wade**—Douglas Co Prosecutor; **Darren Cann**—Mississippi Co Prosecutor; **Mark Fischer**—Pike Co Prosecutor; **Eric Zahnd**—Platte Co Prosecutor; **Paul Davolt**—Polk Co Prosecutor; **Jim McConnell**—Shelby Co Prosecutor; **Jeff Merrell**—Taney Co Prosecutor; **Lynn Ewing**—Vernon Co Prosecutor; **Jason McPherson**—Wright Co Prosecutor

Kelly Broniec—Associate Judge;
Michael Sanders—Jackson County Executive

Missouri Department of Corrections Law Enforcement Notification System--LENS

Prosecutor's Offices and other the law enforcement agencies can now get secure Internet-based access to information relating to all offenders who are incarcerated, on probation or on parole and under the supervision of the Missouri Department of Corrections. This information is available from the Missouri Department of Corrections, Office of Inspector General through a web based program called the Law Enforcement Notification System (LENS).

The type of information for offenders that is available to prosecutors includes the offender's photograph, offenses, aliases, scars/marks/tattoos, last address, last employment, security alerts, whether a DNA sample is on file, the present institution placement, release dates, and other information.

Here's how to get signed up.

1. Download or print the User Agency Agreement from the MOPS web site at <http://www.mops.mo.gov/resource/LENS>
2. Mail the completed form to:
Office of Inspector General
Missouri Department of Corrections
P. O. Box 236
Jefferson City, MO 65102
3. Complete and keep on file one Confidentiality Compliance Statement for each user of the LENS system as outlined in the User Agency Agreement.
4. A user identification and password along with the link to access LENS will be sent to the prosecutor's office via e-mail.

For more information from the Department of Corrections web site, go to <http://www.doc.mo.gov/pdf/LENS.pdf>, or contact Art Leason or Gina Huesgen at (573) 526-6504.

For more information or assistance with the MOPS web site contact Brian Keedy or Jane Quick at (573) 751-0619.

MOPS.MO.GOV

The MOPS website contains conference information (ie. dates, registration, agenda and CLE credits), MOPS and Traffic Safety newsletter archives, the 2005 legislative summary, Prosecuting Attorney contact information and much more.

<http://www.mops.mo.gov/>



MISSOURI SECRETARY OF STATE ROBIN CARNAHAN

The Records Services Division of the Missouri Secretary of State's Office announces the completion of the **Missouri Electronic Records Education and Training Initiative Website**.

<http://www.sos.mo.gov/records/mereti/>

Between September 2003 and October 2005 nationally recognized experts presented seven workshops and two targeted sessions in Jefferson City. The Website includes summaries of the workshops and presentations, copies of the PowerPoint presentations used during each day-long session, along with video clips of the instructors discussing key points.

In addition, the project staff developed several resource tools to provide additional information and guidance on topics covered in the presentations and workshops. They include:

- *Glossary of Electronic Records Terms
- *Acronyms
- *Common Electronic File Extensions
- *Records Laws and Codes
- *Published Standards
- *Related Organizations Websites
- *Guidelines and Other Resources

The workshops consisted of both basic and advanced sessions geared towards state and local government record-keepers, information technology managers, legal professionals, operating program managers, and others. These education sessions were designed to provide attendees with information on various issues related to the policies, practices, and technologies of electronic records access and preservation.

Targeted presentations before the State's Information Technology Advisory Board (ITAB) and members of the Missouri Bar Association's Technology/Computer Law and Government Lawyers committees provided special awareness to groups of government officials who influence electronic recordkeeping matters. The presentations addressed issues such as authenticity, trust-worthiness, and accessibility of records that are created and/or maintained in electronic form.

We invite you to review the Website and would appreciate any comments you have about the Website's content.

For additional information about this project, or to send comments, please contact Craig Kelso, Education and Training Coordinator, at 573-526-1258, or by e-mail at: craig.kelso@sos.mo.gov.

The Missouri Electronic Records Education and Training Initiative was made possible through a grant from the National Historical Publications and Records Commission of the National Archives and Records Administration.



The MOPS office has started an index of opinion topics included in the monthly Caselaw Update, beginning with January 2004. If you would like a copy, please contact Sheri at the MOPS office.

MISSOURI SUPREME COURT

► *Postconviction motions*

Edwards v. State, No. SC86895 (Mo. banc August 8, 2006). Defendant was convicted of first degree murder and sentenced to death. His convictions and sentence were affirmed on direct appeal. He filed a Rule 29.15 motion for postconviction relief which was denied. He raised various claims on appeal.

In his first claim, he claimed that his appellate counsel was ineffective in failing to challenge the trial court's exclusion of evidence concerning an accomplice's sentence. This evidence was simply not relevant as to mitigation in the penalty phase. Thus, this did not constitute ineffective assistance of counsel.

Defendant also claimed that he was denied the opportunity to confront his accomplice. None of the accomplice's statements, however, implicated the defendant. Moreover, none of these statements were admitted for the truth of the matter asserted. Rather, the statements were admitted for the limited purpose of explaining subsequent police conduct. Thus, these statements were not testimonial and the confrontation clause was not implicated.

Defendant next claims that he was not allowed to testify at the Rule 29.15 hearing. There is no right for a defendant to testify in a postconviction proceeding. Whether the movant will testify is a matter left to the sound discretion of the postconviction attorney. A movant's wishes on this matter do not override the decision of counsel.

► *Evidence of other crimes—prior acquittals*

State v. Clark, No. SC87473 (Mo. banc August 8, 2006). Defendant was convicted of first degree assault, armed criminal action, and attempted first degree robbery. During the punishment phase, the state introduced evidence of prior crimes of which defendant had been acquitted. He appealed alleging this was error.

At trial, the state introduced evidence that defendant shot five other people, killing four of them, in two separate incidents. The state also introduced evidence that all of those people were shot with the same gun used to shoot the victim in this case. This evidence was introduced to support the state's request that defendant be sentenced to the maximum terms available for his crimes.

An acquittal in a criminal case does not preclude the

state from relitigating an issue when it is presented in a subsequent action governed by a lesser standard of proof. The punishment phase of a trial is generally subject to a lower standard of proof. Here, defendant did not receive any enhanced sentences. Thus, any facts that would have tended to assess his punishment within the unenhanced range were not required to be found beyond a reasonable doubt. For this reason, the state was not precluded from using evidence of the prior acquittals during the penalty phase in this case. A jury's verdict of acquittal does not prevent a sentencing court from considering conduct underlying the acquitted charge so long as that conduct has been proved by a preponderance of the evidence.

► *Sex offender registry*

Jane Doe v. Phillips, No. SC86573 (Mo. banc June 30, 2006). Eleven individuals required to register as sex offenders filed suit challenging the constitutional validity of the sexual offender registry statutes and seeking to prevent further enforcement of these statutes. The offenders alleged that the registry violated their due process and equal protection rights and violated prohibitions against ex post facto laws, bills of attainder and special laws.

The court rejected the bulk of the offenders' claims. The court accepted only their claim that the portions of the law imposing an affirmative duty to register based solely on pleas or convictions for conduct committed prior to January 1, 1995, when Megan's Law was enacted, violated the Missouri constitution's prohibition on laws retrospective in operation. Therefore, individuals required to register only because of offenses committed prior to January 1, 1995, can no longer be required to take affirmative action to register or update their registrations. This does not mean, however, that their names must be removed from the registry as the prohibition on retrospective laws does not prohibit others from publishing information about them. Moreover, their inclusion on the registry flows from their convictions which are already matters of public record.

MISSOURI EASTERN DISTRICT

► *Postconviction motions—denial of evidentiary hearing*

Whited v. State, No. ED86584 (Mo. App. E.D. July 18, 2006). Defendant was convicted of domestic assault in the second degree. He filed a Rule 29.15 motion for postconviction relief which was denied without an evidentiary hearing. In his motion, defendant claimed that he



received ineffective assistance of counsel as his attorney had failed to present the testimony of a witness who would have testified that the victim caused the injuries to herself. The court found that this testimony would have negated an element of the crime of which defendant was convicted. Because this claim was not refuted by the record, defendant was entitled to an evidentiary hearing.

► ***Sentencing enhancement—proof of priors***

State v. Hurst, No. ED85592 (Mo. App. E.D. July 11, 2006). Defendant was convicted of three counts of first degree statutory rape, one count of first degree statutory sodomy, and one count of second degree attempted statutory rape. He was sentenced as a persistent offender and a predatory sexual offender. On appeal, he claims that the trial court erred in sentencing him as a predatory sexual offender because the state did not prove that he had previously pleaded guilty to the class B felony of child molestation in the first degree.

The state conceded that the trial court erred in sentencing defendant as a predatory sexual offender as the acts the defendant was convicted of committing occurred prior to the enactment of the predatory sexual offender statute. Thus, defendant's sentences were vacated and the case was remanded for resentencing.

► ***Evidence of other crimes***

State v. Holleran, No. ED86074 (Mo. App. E.D. August 1, 2006). Defendant was convicted of tampering in the first degree and resisting arrest. On appeal, he claims that the trial court erred in allowing the state to read into evidence his guilty pleas to subsequent offenses and the information on which they were based.

The court found that the defendant's guilty pleas were not logically or legally relevant to the charges of tampering and resisting arrest. The state attempted to argue that they were relevant to establish identity in that names of defendant's co-defendants in the crimes to which he pled guilty came up in the investigation of the instant charges. This fact, however, does not tend to incriminate defendant on the tampering charges. Moreover, the fact that defendant was with the same individuals some time after the offenses was not inconsistent with his defense theory at trial. Thus, the trial court erred in admitting this evidence. The case was reversed and remanded.

MISSOURI SOUTHERN DISTRICT

► ***Statutory Sodomy***

State v. Carney, No. SD27012 (Mo. App. S.D. July 14, 2006). Defendant was convicted of two counts of

child molestation and one count of statutory sodomy in the first degree. On appeal, he challenges only his statutory sodomy conviction arguing that there was no evidence presented at trial to show that the act of sodomy occurred within the time period charged in the amended information and set out in the jury instruction.

The essential elements of statutory sodomy in the first degree are that the defendant had deviate sexual intercourse with the victim and that the victim was less than twelve years old at the time. There was sufficient evidence presented at trial to establish both of these elements. Although both the information and the jury instruction specified a time period in which the acts allegedly occurred, time is not of the essence in sex offense cases. Thus, the state was not required to prove that any act happened on any specific date.

► ***Instructions—plain error review***

State v. Tabor, No. SD27218 (Mo. App. S.D. August 3, 2006). Defendant was convicted of felony animal abuse after he attempted to halter break a 9 month old colt by dragging it behind a van and causing its hooves and bones to be worn all the way into the joint. On appeal, he claims that the jury instructions misled the jury. Because he did not proffer a correct instruction, he sought plain error review.

The court declined plain error review and affirmed the conviction. The jury instruction submitted was patterned after a Missouri Approved Instruction. The instruction did not lessen the burden of proof.

► ***Admissibility of evidence—bias***

State v. Fry, No. SD 27163 (Mo. App. S.D. July 24, 2006). Defendant was convicted of robbery in the first degree, two counts of assault in the second degree, and burglary in the first degree. In his sole point on appeal, he claimed that the trial court erred in refusing to allow him to cross-examine one of the victims in the case who had a pending criminal charge being prosecuted by the same prosecuting attorney.

Generally, a person can be examined about pending criminal charges if the inquiry would show a possible motivation to testify favorably for the government or that testimony was given in expectation of leniency. Here, there was no showing that the victim in defendant's case had been offered any deals or expected any deals in her criminal case as a result of testifying in defendant's case. Both the state and the victim denied on the record that any deals were or would be offered. Thus, defendant failed to lay an adequate foundation to allow him to cross-examine the victim regarding her pending criminal charges.



► ***Appeal—right to counsel***

Smiley v. State, No. SD 27302 (Mo. App. S.D. July 28, 2006). Defendant was convicted of two counts of burglary in the second degree. He thereafter filed a Rule 29.15 motion for postconviction relief alleging that he had been denied his right to counsel as the trial court had failed to appoint an attorney to represent him in preparation for direct appeal. This motion was denied.

It is well settled that a criminal defendant is entitled to representation at all critical stages of a prosecution. The filing of a notice of appeal is a critical state. Thus, defendant was entitled to the assistance of counsel in preparing his notice of appeal. Because he was denied such assistance, the sentence previously imposed must be vacated. Defendant must be appointed counsel to assist him in filing his direct appeal.

► ***First degree murder—character evidence/closing argument***

State v. Hardy, No. SD27257 (Mo. App. S.D. August 4, 2006). Defendant was convicted of first degree murder. In his first point on appeal, defendant claims that a mistrial should have been declared when the state asked a defense witness on cross-examination if defendant was a member of the Aryan Brotherhood. The witness answered that he did not know. Although the court determined that this question was not logically or legally relevant to any issue in the case, the defendant was not prejudiced thereby as the evidence of his guilt was overwhelming.

In his next point, defendant objected to a comment made by the state in closing argument that if the jury found that defendant acted on the spur of the moment it should find him guilty of second degree murder. The jury convicted the defendant of first degree murder, necessarily concluding that he had deliberated. It was clear from the context of the argument that the state was referring to whether or not defendant deliberated. It was not a misstatement of the law.

MISSOURI WESTERN DISTRICT

► ***Postconviction motions—factual basis***

Leedom v. State, No. WD65753 (Mo. App. W.D. July 18, 2006). Defendant initially entered Alford pleas to charges of first degree assault and unlawful use of a weapon. At the hearing for these pleas, the facts of the offenses were stated and agreed to by defendant. Upon learning that he would not be eligible for probation, however, defendant was allowed to withdraw the pleas. Thereafter, after reaching a plea agreement with the prosecutor, defendant again entered pleas to the charges.

At this hearing, the court simply made reference to the facts that had been alleged at the prior proceeding and did not again establish a factual basis for the pleas.

On appeal, the court found that it was permissible to rely on the record from the initial plea hearing to establish a factual basis for the pleas at the second hearing. The court cautioned, however, that the safer practice would have been to establish a complete record at the second hearing.

► ***Ineffective assistance of counsel—failure to convey plea offer***

Members v. State, No. WD65390 (Mo. App. W.D. July 18, 2006). Defendant was convicted of first degree murder and armed criminal action. He filed a Rule 29.15 motion for postconviction relief which was denied without an evidentiary hearing. In his motion, defendant claimed that his attorney had failed to convey to him a plea offer made by the State. He also claimed that had he known of the offer, it would have been accepted. In its response to defendant's motion, the State vehemently denied that an offer had been made.

The record here reflects that prior to the defense case, the State and defense counsel had an exchange as follows:

STATE: I suppose you can talk to [defendant], but I don't think it is going to do any good.

DEFENSE: I don't think it will do any good. If it is still possible.

STATE: Sure, yes.

There is nothing else in the record which conclusively shows whether an offer was, in fact, made.

On appeal, the court concluded that defendant was entitled to an evidentiary hearing unless his claim was refuted by the record. Here, although the State denied any offer had been made, it pointed to nothing in the record to support this claim. Thus, defendant was entitled to an evidentiary hearing on his claim.

► ***Ineffective assistance of counsel***

Jones v. State, No. WD 65631 (Mo. App. W.D. August 1, 2006). Defendant was convicted of first degree murder and armed criminal action. He filed a Rule 29.15 motion for postconviction relief claiming that he received ineffective assistance of counsel when his attorney failed to object to comments made by the state in voir dire and in opening. He also claims that his attorney failed to seek admission of out-of-court statements made by the victim's daughter. The motion was denied without a hearing.

In voir dire, the state informed the jury that the case against defendant was based on scientific evidence. In opening statement, the state told the jury that they would come face to face with evil and that the fingerprint evi-



dence was scientific evidence that defendant committed the crime. Defense counsel did not object to any of these statements. Here, the evidence of guilt was overwhelming. Defendant failed to show he was prejudiced by these comments and his attorney was not ineffective in failing to object thereto.

In his motion, defendant alleged that his counsel should have sought to introduce statements made by the victim's three year old daughter indicating that other men were responsible for the murder. The daughter had previously been declared incompetent to testify due to her age. The statements were also not admissible as excited utterances as they were made several hours after the murder, were unclear, and demonstrated that the child lacked capacity to remember the occurrence and explain what happened. Thus, it was not ineffective assistance to not seek admission of this evidence.

► ***Criminal nonsupport—factual basis***

Calvin v. State, No. WD65265 (Mo. App. W.D. August 1, 2006). Defendant pled guilty to one count of felony non-support. He filed a Rule 24.035 motion for postconviction relief which was denied.

Defendant claims that he received ineffective assistance of counsel as his attorney failed to advise him that he had a viable good cause defense to the charge of non-support. He also claimed that the plea court erred in accepting his guilty plea without an adequate factual basis.

On appeal, the court agreed that there was not a sufficient factual basis for defendant's plea. During the plea colloquy, defendant admitted that he had failed to fulfill his support obligations. Nothing in the record, however, indicates that he was without good cause in failing to do so. Because he had been incarcerated during some of the time in question, he likely did have a viable good cause defense to the charges. The case was remanded for trial.

► ***State appeal—award of costs***

State v. Morris, No. WD65988 (Mo. App. W.D. August 8, 2006). The state appeals from a judgment awarding over \$4,000 in costs to defendant following the pretrial dismissal of a sodomy charge against him. Section 550.040 requires the state to reimburse a defendant if he is acquitted of a capital charge or a charge for which imprisonment is the only authorized punishment. For purposes of this statute, a dismissal is tantamount to an acquittal only where the dismissal occurs after the trial begins and jeopardy has attached. Here, the dismissal occurred before any trial date had even been set. Thus, defendant was not entitled to an award of costs.

► ***Assault in the second degree—sufficiency of the evidence***

State v. Folsom, No. WD65351 (Mo. App. W.D. August 8, 2006). Defendant was convicted of second degree assault. He appealed claiming that the trial court erred in allowing the state to amend the information the day before trial and that the evidence was insufficient to support his conviction.

The defendant was originally charged with second degree assault for knowingly causing physical injury by means of a deadly weapon. The day before trial the information was amended to provide that defendant caused injury by means of a dangerous instrument. This amendment was proper as it did not prejudice defendant. His defense at trial was that the state could not prove the existence of any weapon. This defense was equally available to him under either version of the information.

Moreover, the fact that the state could not prove what was used to injure the victim did not render the evidence insufficient to support the conviction. The evidence was clear that the victim was struck with some object that caused a gaping, open wound. Additionally, defendant told the victim that he had stabbed him. This was sufficient to support a reasonable inference that defendant used a dangerous instrument to stab the victim.

► ***Brady v. Maryland—failure to disclose exculpatory evidence***

State v. Parker, No. WD52112 (Mo. App. W.D. August 15, 2006). Defendant was convicted of murder in the second degree and armed criminal action. He appealed alleging that the state had withheld material and exculpatory information in violation of *Brady v. Maryland*. Specifically, defendant claims that the state withheld witness statements that would have corroborated his claim at trial that while he was a passenger in a car that drove past a house that was the scene of a drive-by shooting, no one in the car was involved in the shooting, and the house was dark when he drove by. Defendant has presented a palpable *Brady* claim. Because the record on appeal is insufficient to permit meaningful review, the case is remanded to the circuit court for a hearing on his claims.



WITNESS PROTECTION ASSISTANCE IS
AVAILABLE THROUGH THE MOPS OFFICE.

FOR INFORMATION, YOU MAY CALL SHERI
AT (573) 522-1838.



JENNIFER JOYCE

Jennifer Joyce received a Bachelors Degree in Business Administration from St. Louis University, in 1987. She graduated in 1990 from St. Louis University School of Law.

After law school, she worked in private practice at a large law firm for a little over four years. She says, "Although I initially enjoyed my work in private practice, I eventually wanted to do something more meaningful to me and to the community. I decided to become a prosecutor and have never regretted that decision (*except sometimes when I am paying bills*)."

Joyce served 6 years as an assistant prior to being elected St. Louis City Circuit Attorney in 2000. She says, "The best thing about being a prosecutor is that you are always free to do what you think is right."

She is very proud of the Assistants that work in her office about whom she says: "While I don't have a single moment that stands out, I have many collective moments spent watching the prosecutors who work in my office. I'm very proud of the men and women who serve as Assistant Circuit Attorneys. The City of St. Louis is a very difficult jurisdiction for prosecutors, and the attorneys in my office do an impressive job."

Her advice to new prosecutors is simple: "to thine own self be true. Strive for justice, not popularity." Joyce says, "As prosecutors, we are accountable for our own public image. Our sole mission is the pursuit of justice, and we should take every opportunity to educate and inform the citizens we serve about our role. If we don't proactively define ourselves, the media and defense attorneys will do it for us –to our detriment and the detriment of the justice system."

Jennifer serves on the MAPA Legislative Committee. She is currently the only prosecutor serving on the Missouri Bar Board of Governors. She is a member of various bar associations such as the Bar Association of Metropolitan St. Louis, the American Bar Association, the Women Lawyers Association and the Mound City Bar.

She is on the board of *The BackStoppers, Inc.*, an organization that provides needed support and financial assistance to the spouses and children of police officers and fire fighters killed in the line of duty. (If you are interested in supporting *The BackStoppers*, she encourages you to contact her.)

Jennifer loves the great outdoors. Mountain climbing, backpacking and cycling are her favorite pastimes.

- ▶ **Funniest moment as a Prosecutor:** "Once during a closing argument, my heel broke off causing me to fall down in front of the jury. The jury must have felt sorry for me because they returned a conviction."
- ▶ **Last great book she read:** "A few years ago I set a goal to read biographies of all the presidents of the United States. Of the one's that I have read so far, Lincoln is my favorite."
- ▶ **Favorite website:** "Lately, I've become addicted to a variety of political blogs."
- ▶ **Favorite type of music/artist:** "My current favorite is the Irish punk rock band 'Flogging Molly'."
- ▶ **Favorite sports team/athlete:** "The St. Louis Cardinals, of course!"



MOPS TRAINING 2006-2007

August 30-September 1, 2006	MOPS Fall Statewide Training	Lodge of Four Seasons—Lake Ozark, MO
September 12, 2006	Introduction to Drugged Driving	Courtyard by Marriott—Columbia, MO
September 19, 2006	Introduction to Drugged Driving	Sheraton Westport—St. Louis, MO
September 20, 2006	Introduction to Drugged Driving	Days Inn—Kirkville, MO
September 25, 2006	Introduction to Drugged Driving	Best Western Coach House—Sikeston, MO
September 26, 2006	Introduction to Drugged Driving	Clarion Hotel—Sports Complex, Kansas City, MO
October 9-12, 2006	Train the Trainer	Sheraton Clayton Plaza—St Louis, MO
October 23-25, 2006	Child Abuse Trial Advocacy School	Country Club Hotel—Lake Ozark, MO
January 11-12, 2007	Elected Prosecutor Meeting	Sheraton Westport—St. Louis, MO
April 4-6, 2007	MOPS Spring Statewide Training	Lodge of Four Seasons—Lake Ozark, MO

NATIONAL CLE TRAINING September 2006

September 2006

Sun	Mon	Tue	Wed	Thu	Fri	Sat
					1	2
3	4	5	6	7	8	9
10	11	12	13	14	15	16
17	18	19	20	21	22	23
24	25	26	27	28	29	30

Sept 6-8	Gangs Symposium	NDA	NAC, Columbia, SC ▼
Sept 10-14	Evidence for Prosecutors	NCA	Providence, RI
Sept 11-14	When Child Abuse Hits Home: Investigating, Proving and Assessing Reunification in Civil Child Protection Cases	APRI	Missoula, MT
Sept 11-15	National Institute on the Prosecution of Domestic Violence	APRI	San Diego, CA
Sept 18-20	2006 Human Trafficking & Sexual Exploitation National Seminar	APRI & LEIA	Las Vegas, NV
Sept 18-21	Prosecutor and the Media	NDA	NAC, Columbia, SC ▼
Sept 19-21	Certified in Homeland Security 2006 National Conference	A.B.C.H.S.	Orlando, FL
Sept 19-22	Cross-Examination	NDA	NAC, Columbia, SC ▼
Sept 20-22	National Association for Justice Information Systems Conference	NAJIS	Aventura, FL
Sept 25-27	Hitting the Mark: Introduction to Gun Violence	APRI	Jackson Hole, WY
Sept 25-29	Trial Advocacy I	NDA	NAC, Columbia, SC ▼
Sept 25-29	Finding Words Arkansas (Week #3)	APRI	Rogers, AR
Sept 25-29	Finding Words Virginia (Week #3)	APRI	Richmond, VA
Sept 26-29	National Institute on the Prosecution of Sexual Violence	APRI	Denver, CO

NATIONAL CLE TRAINING October-December 2006

October 2006

Sun	Mon	Tue	Wed	Thu	Fri	Sat
1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30	31				

Oct 3-5	3rd National Community Prosecution Conference	APRI	San Diego, CA
Oct 14-18	Executive Program	NCDA	Park City, UT
Oct 22-26	16th Annual National Conference on Domestic Violence	NCDA	Houston, TX
Oct 23-27	Finding Words Delaware (Week #3)	APRI	Newark, DE
Oct 29-Nov 2	Prosecuting Drug Cases	NCDA	New Orleans, LA

November 2006

Sun	Mon	Tue	Wed	Thu	Fri	Sat
			1	2	3	4
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28	29	30		

Nov 12-16	Prosecuting Homicide Cases	NCDA	Savannah, GA
Nov 13-17	Finding Words Missouri - Presented by the MO Network Of Child Advocacy Centers		Union, MO
Nov 16-18	NDAA Board of Directors Meeting	NDAA	Scottsdale, AZ
Nov 19	APRI Board of Directors Meeting	APRI	Scottsdale, AZ
Nov 26-30	Prosecuting Sexual Assaults and Related Violent Crimes	NCDA	San Diego, CA

December 2006

Sun	Mon	Tue	Wed	Thu	Fri	Sat
					1	2
3	4	5	6	7	8	9
10	11	12	13	14	15	16
17	18	19	20	21	22	23
24	25	26	27	28	29	30
31						

Dec 3-7	Government Civil Practice	NCDA	Las Vegas, NV
Dec 4-8	National Institute on the Prosecution of Domestic Violence	APRI	Charleston, SC
Dec 5-9	NAPC Winter Meeting	NAPC	Perdido Beach, AL
Dec 10-14	Forensic Evidence	NCDA	San Francisco, CA

FOR INFORMATION ON NATIONAL COURSES: National District Attorneys Association (NDAA) - (703) 549-9222 <http://www.ndaa.org/>

American Prosecutors Research Institute (APRI) - (703) 549-4253 <http://www.ndaa-apri.org> National College of District Attorneys (NCDA) - (803) 705-5005 <http://www.law.sc.edu/ncda/>

▼ All expenses including accommodations, transportation and meals are covered or reimbursed by the NAC, and no tuition is charged.
Please remember that all applications must be signed by the Elected Prosecutor.

PROSECUTING ATTORNEY & CIRCUIT ATTORNEY'S RETIREMENT FUND

Board Members:

John Richards, *Lincoln County*
Bob George, *Lawrence County*
Kevin Barbour, *Butler County*
Kevin Crane, *Boone County*
Doug Roberts, *Livingston County*

For questions regarding the retirement system please contact:

Katrina Farrow, *Executive Secretary*
PO Box 104896
Jefferson City, MO 65110
Phone: (573) 556-7985
Fax: (573) 556-7986

MOPS STATEWIDE TRAINING AGENDA—FALL 2006

This conference offers 15.6 hours of CLE for attorneys, including 2.4 hours of ethics.

PRECONFERENCE— WEDNESDAY	TIME	EVENT
	8:30 am—5:00 pm	Registration - <i>Granada A</i>
	10:00 am—11:00 am	Elected Prosecutor Roundtable - <i>Marbella A</i>
	10:30 am—12:00 pm	Victim Advocates—Meet & Talk - <i>Lookout</i>
	11:00 am—1:00 pm	Legislative Roundtable - <i>Marbella A</i>



	TIME	TOPIC	SPEAKER
WEDNESDAY— August 30, 2006	1:00 pm—1:55 pm	<i>General Session:</i> What do they want from me? Basic do's & don'ts of dealing with crime victims.	Dwight Scroggins—Buchanan County, Prosecuting Attorney
	1:00 pm—2:00 pm	<i>Victim Services:</i> Navigating the Criminal Justice System: Helping your victim understand the process as their case goes from crime to the disposition of the case	Patty Moody—Victim Advocate, New Madrid County
	1:00 pm—4:30 pm	<i>Support Staff:</i> Verbal Judo: Learn techniques to handle angry & difficult people	Jeff Borlinghouse—MO State Highway Patrol
	1:00 pm—5:00 pm	Child Support Enforcement Training	TBA
	1:55 pm—2:50 pm	<i>General Session:</i> Prosecutor & the Media	Jennifer Joyce—City of St. Louis, Circuit Attorney and Jack Banas—St. Charles County Prosecutor
	2:15 pm—3:15 pm	<i>Victim Services:</i> Technology: How it is being used by & against battered women & how to safeguard communications with them	Cheryl Robb-Welch—Operations Director, MO MCADSV
	2:50 pm—3:00 pm	<i>Prosecutor Recognition Presentation—Granada B/C</i>	<i>John Kay—MAPA President</i>
	3:15 pm—5:15 pm	<i>General Session:</i> Caselaw Update	Shaun Mackelprang, Karen Kramer, & Evan Buchheim—Assistant Attorneys General
	3:30 pm—4:30 pm	<i>Victim Services:</i> Grants: What is available & how they may benefit your agency	Patty Rellergert—Program Manager, Victims Services Grant Program Office
	5:15 pm	<i>Retirement Board Election—Granada B/C</i>	
THURSDAY— August 31, 2006	8:15 am—9:30 am	<i>Victim Services:</i> To Be Announced	Mark Koch—Boone County Victim Advocate
	8:30 am—9:30 am	<i>Support Staff:</i> Criminal History Reporting—Reading the Criminal History Record	Kerry Creach—MSHP & Scott Jones—OSCA
	8:30 am—10:00 am	<i>General Session:</i> Principles of Adult Learning	Kimberly Overton—Traffic Safety Resource Prosecutor, NC
	9:30 am—10:30 am	<i>Support Staff:</i> Sunshine Law & the News Media	James Klahr—Assistant Attorney General
	9:45 am—10:45 am	<i>Victim Services:</i> Drunk Drivers: How law enforcement stops them & assists in their prosecution	Lt. John Davis—Cape Girardeau Police Department
	10:00 am—10:30 am	<i>General Session:</i> Instructing on Lesser Included Offenses: When, Why, & How	Breck Burgess—Boone County, Assistant Prosecutor
	10:45 am—12:00 pm	<i>Support Staff:</i> Record Retention & Digital Media: Is it really "forever"? - Tips on making the right choice along with the basic rules of record retention	Craig Kelso & Linda Myer—Secretary of State Digital Archiving
	10:45 am—12:45 pm	<i>General Session:</i> Prosecuting a Domestic Violence Case in the Post-Crawford Age	Herb Tanner—Domestic Violence Resource Prosecutor, MI
	11:00 am—12:00 pm	<i>Victim Services:</i> MOVANS: How it works & how it helps you to help your victim	Marc Peoples—Program Manager, MO Office for Victims of Crime
	2:00 pm—3:00 pm	<i>Optional Session:</i> Demo of new case management program	
	2:00 pm	<i>MAPA Golf Tournament—Sycamore Creek Golf Club</i>	
FRIDAY— September 1, 2006	8:30 am—9:30 am	<i>General Session:</i> Traffic Bench Guide Presentation	Jeffrey Bushur, Assoc Circuit Judge, 16th Circuit, John Clayton, Assoc Circuit Judge, 25th Circuit, & Catherine Zacharias, Legal Counsel, OSCA
	9:00 am—10:00 am	<i>Victim Services:</i> MoDOC: Helping your victim keep track of the offender when sentenced to prison	Kay Crockett—Victim Services Coordinator, MO Department of Corrections
	9:30 am—11:30 am	<i>General Session:</i> The Visual Trial: Turning the CSI Effect to your Advantage	Herb Tanner—Domestic Violence Resource Prosecutor, MI
	11:00 am—12:00 pm	<i>Victim Services:</i> Round Table Discussion; Program Assessment	Beth Garoutte—Victim Advocate, Cape Girardeau County Prosecutor's Office
	11:45 am—1:45 pm	<i>General Session: Ethics:</i> The Role of the Prosecutor (2.4 hours)	Morley Swingle—Cape Girardeau Co, Prosecuting Attorney

**MISSOURI OFFICE OF PROSECUTION SERVICES
FALL STATEWIDE TRAINING
LODGE OF FOUR SEASONS, LAKE OZARK, MO
AUGUST 30-SEPTEMBER 1, 2006**

NAME _____ **TITLE** _____

COUNTY _____ **TELEPHONE** _____

ADDRESS _____

CITY _____ **ZIP** _____

Room Accommodations

Rate: \$ 69.01 Single/Double/Triple/Quad (inclusive of tax)
2 & 3 Bedroom Suites available—inquire with reservationist

THE LODGE WILL RELEASE OUR BLOCK OF ROOMS AUGUST 18

Early registration and direct billing is encouraged

Hotel Reservation: Call Lodge of Four Seasons at 1-800-843-5253 to make reservations. The reservation must be accompanied with either a one-night deposit or credit card guarantee. Direct billing to individual offices must be requested in writing to the hotel in advance of the convention date. (Include office tax-exempt letter). Room cancellations must be received 72 hours prior to arrival date. Any rooms not canceled by you will be your responsibility.

MOPS Registration Fee: NOTE: There will be a non-refundable registration fee of \$80.00 per person. The registration fee includes all meal functions. Please make checks payable to "MOPS Revolving Fund" and mail them to "Missouri Office of Prosecution Services" along with this registration form.

Food Functions: Family members are welcome to attend food functions at \$10.00 for each function they wish to attend. Please indicate below the meals and the number attending. Please be accurate as we base our guarantee on your response. No refunds will be made. The following food functions are scheduled:

- | | | | | |
|-----------|-----------------------------|-------------|------------------|--------------------------|
| 1) | Wednesday, August 30 | (#) | Cookout | 6:00 – 7:30 p.m. |
| 2) | Thursday, August 31 | (#) | Breakfast | 7:00 – 8:15 a.m. |
| 3) | Thursday, August 31 | (#) | Lunch | 12:45 – 1:45 p.m. |
| 4) | Friday, September 1 | (#) | Breakfast | 7:00 – 8:15 a.m. |

All other meals will be on your own

I will attend:

General Session, Wed., Thurs. & Fri.	_____
Support Staff Training, Wed. & Thurs.	_____
Child Support Enforcement Training, Wed.	_____
Victim Advocate Training, Wed., Thurs. & Fri.	_____

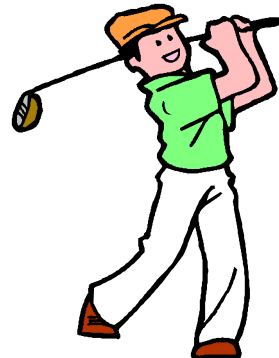
Please return this form with your check for the registration fee and food functions for your family to:

Missouri Office of Prosecution Services
Fall Statewide Training
P. O. Box 899
Jefferson City, MO 65102

Please copy and distribute

**MISSOURI ASSOCIATION OF PROSECUTING ATTORNEYS
FOURTEENTH ANNUAL GOLF TOURNAMENT**

August 31, 2006



The Fourteenth Annual MAPA Golf Tournament is set for Thursday, August 31, 2006, at the Sycamore Creek Golf Club. Tee time will be at approximately 2:00 p.m. You will need to be at the golf course and ready to go at least 15 minutes ahead of time.

Again, this year's format is a four-person scramble, and you may request your team members (which I will honor), or if you do not have a full team, I will set up a team for you.

The price of this year's tournament will be \$45.00, which includes 18 holes of golf, cart and prizes. There will be no banquet, but the awards "ceremony" will be in the clubhouse bar (cash) following the tournament.

PLEASE NOTE — All golfers, regardless of ability level, are invited and encouraged to participate. Our objective is to have fun, meet people, and provide an opportunity for all parties to broaden their contacts across the state. Staff members and spouses are welcome.

Send your registration form to the address below. If you have any questions, please feel free to contact me and plan to come and join us on August 31.

GOLF REGISTRATION FORM

NAME _____ **COUNTY** _____

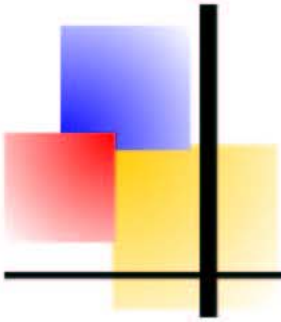
ADDRESS _____ **PHONE** _____

CITY/STATE/ZIP _____

TITLE OR POSITION _____

Please attach a check for the registration fee made out to "MAPA" and return this form to:

**Bart Spear
DeKalb County Prosecuting Attorney
P. O. Box 248
Maysville, MO 64469**



Missouri Office of Prosecution Services,
Traffic Safety Program,
presents:

Breath Alcohol Testing for Prosecutors

This four-hour seminar presented by Brian Lutmer from the Department of Health's Breath Alcohol Program will cover the basics of breath alcohol testing and prepare prosecutors to respond to the most commonly raised defense challenges. Seminar topics will include:

Breath Alcohol Testing—Facts and Fiction
“I Only Had Two Beers!”—Widmark Calculations
***“What was My BAC When I was Stopped?”—Rising
and Falling BACs***
10 Most Common Defense Challenges

September 29, 2006
9:00 a.m. to 1:00 p.m.
Stoney Creek Inn
2601 S. Providence
Columbia, MO 65203

Space is limited. Contact Susan Glass at
573-751-1629 or Susan.Glass@ago.mo.gov
to register. This seminar will qualify for 4.8 hours of CLE.

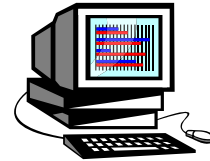
**Prosecutor Coordinators Training Council,
MAPA Officers:**

President: John Kay, *Moniteau County Prosecutor*
Vice-President: Kevin Crane, *Boone County Prosecutor*
Secretary: Mike Hazel, *Pemiscot County Prosecutor*
Treasurer: Scott Watson, *Newton County Prosecutor*
Past President: Bob Wilkins, *Jefferson County Prosecutor*

Missouri Attorney General: Jay Nixon

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Conference Coordinator: Bev Case
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If you are interested in receiving the
newsletter by e-mail or
wish to submit an article,
please notify Sheri at the MOPS office.

E-mail: Sheri.Menteer@ago.mo.gov

MISSOURI PROSECUTOR

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**MISSOURI OFFICE OF PROSECUTION SERVICES
PO BOX 899
JEFFERSON CITY, MO 65102**

***Mission Statement: To improve Missouri's Criminal Justice System by promoting professional prosecution by enhancing
funding and training for prosecutors; by advancing the interests and the image of Missouri prosecutors and to
facilitate communication among and between prosecutors and the criminal justice community.***